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Lawn Care Pesticide Risks Remain Uncertain
While Prohibited Safety Claims Continue

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Statement of
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Before the
Subcommittee on Toxic Substances,
Environmental Oversight, Research
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Committee on Environment and Public Works
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Mr. Chairman and Members of the Subcommittee:

We appreciate the opportunity to be here today to discuss our report on the Environmental Protection Agency's (EPA) progress in reassessing the health risks of widely used lawn care pesticides and information the lawn care pesticides industry provides to the public about the safety of its products.¹ Our report also provides information on federal enforcement actions taken against prohibited lawn care pesticide safety advertising claims.

Nearly 4 years ago we reported to this Subcommittee on EPA's lack of progress in reassessing the chronic health risks associated with the use of nonagricultural pesticides and on the limited federal monitoring and enforcement action being taken against safety advertising claims made by the pesticides industry.² In that report, we concluded that there is considerable uncertainty about the potential for nonagricultural pesticides to cause chronic health effects, such as cancer and birth defects, and that reassessing the health risks of using these pesticides may take a long time. We also concluded that the general public receives misleading information on pesticide hazards and that EPA had made limited use of its authority over unacceptable

¹Lawn Care Pesticides: Risks Remain Uncertain While Prohibited Safety Claims Continue (GAO/RCED-90-134, March 23, 1990).

²Nonagricultural Pesticides: Risks and Regulation (GAO/RCED-86-97, April 18, 1986).

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advertising safety claims. We recommended that EPA take steps to strengthen and improve its program for controlling such claims.

Last May we testified before this Subcommittee and stated that EPA was still at a preliminary stage in reassessing the risks of older pesticides and had not completely reassessed any pesticides.³ We concluded that while EPA had made some progress, it still had much work to do.

As a result of our earlier findings, this Subcommittee asked us to determine what progress EPA has made in reassessing all of the risks associated with the use of lawn care pesticides and in enforcing safety advertising claims. Our follow-up work showed that EPA continues to make limited progress in reassessing the health and environmental risks of pesticides applied to lawns and on food crops. Of the most widely used lawn care pesticides, none of those subject to reregistration has been completely reassessed. We also found that prohibited pesticide advertising claims that EPA classifies as false and misleading are still being made by the lawn care pesticides industry. Yet EPA has taken even fewer formal enforcement actions in recent years than it did during the 1984 and 1985 period we reviewed for our earlier report.

³Reregistration and Tolerance Reassessment Remain Incomplete for Most Pesticides (GAO/T-RCED-89-40, May 15, 1989).

BACKGROUND

Pesticides used for lawn care purposes are chemicals or biological substances designed to kill and control living organisms--unwanted species of plants, insects, and animals. They are used in places where people live, work, and play. They are used in such places as gardens, parks, and on lawns and golf courses. Because lawn care pesticides are designed to destroy or control living organisms, exposure to them can be hazardous.

According to 1988 estimates provided by EPA, lawn care pesticides constitute a large and growing market. Sales of lawn care pesticides in the United States have increased to over \$700 million annually and result in about 67 million pounds of active ingredients being applied. The professional lawn care business has developed into a billion dollar industry over the last decade as more and more people have turned to such companies for lawn maintenance. This business has experienced unprecedented growth, and the demand for these services is still growing. EPA estimates that professional lawn care companies, treating mostly residential lawns, do a \$1.5 billion dollar annual business and that as many as 11 percent of single family households use a professional applicator.

Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is required to evaluate the risks and benefits of a

proposed pesticide before it is registered for use. More recently, the FIFRA Amendments of 1988 (known as FIFRA '88) imposed mandatory time frames and provided resources to help accelerate the reregistration of older pesticides, including lawn care pesticides. Reregistration is the process of bringing approximately 24,000 registered pesticide products into compliance with current data requirements and scientific standards and taking appropriate regulatory action on the basis of this new knowledge.

EPA has authority under FIFRA to take enforcement action against safety advertising claims made by pesticide manufacturers and distributors. Specifically, FIFRA section 12(a)(1)(B) prohibits claims made as part of a pesticide's distribution and sale that differ substantially from claims made as part of a pesticide's registration application.

However, section 12(a)(1)(B) applies only to the distributors and sellers of pesticides, not to the users, such as professional pesticide applicators. Thus, EPA has no enforcement authority over product safety claims made by pesticide applicators, even though they sometimes make claims that would be subject to enforcement action if made by a pesticide distributor.

The Federal Trade Commission (FTC), under its legislative authority to protect consumers against false and deceptive advertising, can take enforcement action against pesticide

applicators as well as manufacturers and distributors. FTC considers a pesticide advertisement to be deceptive if it contains a material representation or omission that is likely to mislead consumers from acting reasonably under the circumstances. To determine whether an advertisement is deceptive, FTC looks at the advertisement as a whole, rather than at individual statements.

HEALTH RISKS OF LAWN CARE PESTICIDES

HAVE NOT BEEN FULLY REASSESSED

Our 1986 report contained a list of 50 pesticides widely used in nonagricultural products. We concluded that the health risks associated with their use were uncertain and that until EPA completed its reassessments as part of the reregistration process, the public would continue to be exposed to unknown health risks associated with these pesticides.

As part of our follow-up work, we planned to update the reregistration status of the 50 pesticides to determine what progress EPA had made in reassessing their health risks. We found, however, after reviewing them with EPA officials that many did not have major lawn care uses. Thus, for our follow-up work, we used a list of 34 pesticides that EPA identified as currently representing those most widely used for lawn care purposes.

We determined the current reregistration status of each of the 34 major lawn care pesticides. Two are not subject to reregistration because they are newer pesticides subject to current registration standards. Of the remaining 32 pesticides, none has been completely reassessed: 23 have been issued an interim registration standard, while 9 have yet to be evaluated in terms of their data needs and conditions of reregistration.

We also determined that six pesticides were subjected to Special Review because of concerns about their chronic health and environmental effects. These concerns range from cancer to wildlife hazards. Two of these pesticides, diazinon and 2,4-D, have been determined to be the most widely used pesticides for residential lawn care. I will now discuss some of the health and environmental concerns associated with the use of these two pesticides as well as EPA's latest actions to address these concerns.

Diazinon is an insecticide used to control a variety of insects found around farms and nurseries, around commercial establishments such as restaurants, and around homes and gardens. Diazinon, in fact, is the most widely used pesticide on residential lawns. According to 1989 EPA estimates, about 6 million pounds of diazinon are used on home lawns and commercial turf.

EPA subjected diazinon to its Special Review process when it found that it was killing waterfowl and other bird species. A Special Review is EPA's evaluation of the risks and benefits of pesticides of particular concern to determine whether regulatory action is needed. As a result, EPA cancelled uses of diazinon on golf courses and sod farms, although bird poisonings on residential lawns and in corn and alfalfa fields have also been reported.

Due to a number of homeowner poisonings from misuse of diazinon, EPA imposed labeling requirements in order to provide information to and protection for the homeowner. EPA has also placed a restricted use requirement on diazinon's commercial outdoor uses (on agricultural crops, for example). Only certified applicators or persons under their direct supervision can apply the pesticide because of its potential hazard to various bird and fish species. This restriction, however, does not apply to commercial lawn care companies and homeowners because EPA believes more criteria are needed to determine the appropriateness of restricting pesticides currently available to the homeowner. EPA has called for additional toxicity data with regard to diazinon's effects on human health, but until these data have been received, diazinon's use on lawns raises uncertainties about its risks to humans.

An ingredient in more than 1,500 pesticide products, 2,4-D is a weed killer that has been used extensively by farmers and home gardeners for over 40 years. About 60 million pounds of 2,4-D are

used annually in the United States, primarily by wheat and corn farmers. Almost 4 million pounds are used annually on residential lawns.

EPA notified the 2,4-D registrant in 1986 of its intent to place the pesticide in Special Review based on evidence of increased cancer risk among farmers handling similar types of herbicides. However, the decision whether to place 2,4-D in Special Review because of possible cancer risk will not be made until late summer 1990 upon completion and review of two epidemiological studies. Further, as part of 2,4-D's registration standard, EPA has called for additional laboratory testing for birth defects and other potential long-term effects for which adequate data are currently unavailable. It will be some time before EPA will make a determination on 2,4-D as these tests may require up to 50 months to complete.

Given the continuing uncertainty of the health risks of lawn care pesticides and EPA's particular concerns about the six pesticides in Special Review, we believe it is all the more important that the public is protected from pesticide advertisements that convey the impression of safety. Yet the pesticides industry continues to make advertising claims that its products are safe or nontoxic while federal enforcement actions against such claims remain limited.

ENFORCEMENT ACTIONS NOT BEING TAKEN ON
PESTICIDE SAFETY ADVERTISING CLAIMS

EPA has taken few formal enforcement actions against unacceptable pesticide safety advertising claims since our earlier report. EPA's data showed that between October 1, 1986, and September 30, 1989, EPA took 17 civil penalty enforcement actions under FIFRA section 12(a)(1)(B). Only one of these actions involved a lawn care pesticide safety claim. Most of the others involved health claims for disinfectants (a class of pesticides) and claims for uses other than a product's registered uses. In comparison, we reported earlier in 1986 that EPA took 18 civil penalty enforcement actions between January 1, 1984, and July 30, 1985--a period of 19 months. Thus, current enforcement activities indicate that reviewing and enforcing pesticide advertising receives less EPA attention now than before.

According to EPA's Compliance Division Director, pesticide safety advertising claims have been and continue to be a low priority because of limited resources and because other unlawful acts under FIFRA, such as pesticide misuse, are EPA's primary concerns. Additionally, EPA does not have an active program to screen pesticide literature nor an enforcement strategy to make better use of its limited resources and ensure proper attention to unacceptable claims. EPA takes enforcement action against

unacceptable pesticide claims as situations are brought to its attention.

Besides taking action under FIFRA, EPA can refer improper advertising claims to FTC. In 1986 and for this update, EPA's Office of Compliance Monitoring could not tell us how many cases EPA had referred to FTC for enforcement action, explaining that the Compliance Division did not keep records of referrals. FTC's Associate Director for Advertising Practices could recall only one case--an efficacy claim--and while he believes there may have been referrals at the regional office level, he had no available data on these cases.

FTC rarely initiates action against pesticide advertising claims. In 1986, its Program Advisor for General Advertising (which includes pesticide advertising) could recall only about three pesticide actions within 10 years or so. Since 1986, FTC has initiated 11 pesticide-related investigations, most of which involved efficacy (effectiveness) claims. None, however, involved a lawn care pesticide safety claim. According to FTC's Associate Director, Division of Advertising Practices, while FTC is still concerned about pesticide safety advertising claims made by manufacturers and distributors, it prefers to defer to EPA in this area because of EPA's specific statutory authority and technical expertise.

For our current report, we reviewed manufacturers' and distributors' pesticide advertising and found they are still making safety claims that could discourage users from following label directions and precautionary statements. Examples of the health and safety information we found included statements such as:

-- "[This product] is safe to use. It won't harm flowers, foliage, or fruit. There's no danger to honeybees or other beneficial insects. And [this product] is safe to applicators. . . " and

-- "[This product is] non-toxic: completely safe for humans, the environment, and beneficial insects."

A more complete listing is contained in our report being released today.

Such claims are prohibited by FIFRA because they differ substantially from claims allowed to be made as part of the pesticide's approved registration. EPA, using its standards for pesticide labels, considers that such claims when made by manufacturers and distributors are false and misleading.

Professional lawn care pesticide applicators are also making claims that could lead consumers to believe that the pesticides applied around their homes are safe or nontoxic. In addition, some

of the professional lawn care company representatives we talked to made safety claims for their products over the telephone. Our report contains a complete listing of applicator safety claims.

While the effect of professional applicator safety claims is uncertain, we believe that such claims may persuade consumers to purchase a service they otherwise would not use or discourage reasonable precautions to minimize exposure, such as avoiding recently treated areas. EPA does not have authority over claims by professional pesticide applicators. FTC, under its own legislation, can act against unacceptable safety claims by applicators, but FTC believes that EPA has been successfully handling such claims through informal actions taken by appropriate EPA regional offices. EPA headquarters officials could not tell us whether pesticide claims referred to its regional offices since 1986 involved any applicator claims. We have since checked directly with four EPA regional offices, and they could not recall any action against advertising claims by professional pesticide applicators. Because neither agency is acting against safety claims by pesticide applicators and because FTC prefers to defer to EPA for action in this area, we believe that EPA needs to seek authority under FIFRA for regulating such claims.

RECOMMENDED ACTIONS

In our report we recommend that EPA take the following actions:

- Because EPA does not have authority over pesticide applicator claims, and since FTC, which has this authority, prefers to defer to EPA because of its technical expertise, EPA should seek legislative authority over safety claims by professional pesticide applicators.
- Also, in order to protect the public from prohibited pesticide safety claims, EPA should enforce FIFRA section 12(a)(1)(B). In doing so, it should develop an enforcement strategy to include, among other things, the effective utilization of staff resources.

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In conclusion, as we testified last May before this Subcommittee, the expeditious reregistration of pesticides is paramount to reducing the uncertainty surrounding their risks. We stated, however, that while EPA had made some progress in this regard, it still had much work to do. We continue to believe that while FIFRA '88 can help accelerate the reregistration process, reregistering pesticide products and reassessing their risks remain

formidable tasks. In the interim, the general public's health may be at risk from exposure to these pesticides until EPA's reassessments are performed and regulatory action has been taken. Additionally, we believe that without an effective federal enforcement program, the lawn care pesticides industry will continue to make prohibited safety claims that EPA classifies as false and misleading and that could discourage users from following label directions and precautionary statements or lead consumers to believe that the pesticides applied around their homes are safe or nontoxic.

Mr. Chairman, this concludes my prepared statement. I will be glad to respond to any questions that you or members of the Subcommittee might have.